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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,200	06/19/2001	Donald E. Weder	8403.411	3758
30589	7590	05/11/2004	EXAMINER	
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113			GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/884,200

Applicant(s)

WEDER, DONALD E.

Examiner

Jeffrey L. Gellner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 5-10, 12, 15, 21, 22 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11, 13, 14, 16-20, 23, 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The “first longitudinal edge” and the “second longitudinal edge” of claim 1, line 3, is not recited in the specification for Figs. 1-4.

### ***Election/Restrictions***

Claims 12 and 24 are withdrawn from prosecution because the amended language of “edges angled” is not disclosed in the elected Species I - Figs. 1-4.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 14, 16-20, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Wardwell (US 3,902,541).

As to Claim 1, Wardwell discloses a collapsible container (Figs. 1-5) comprising a plurality of rigid segments (14 of Fig. 4), each of the rigid segments having inner and outer

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surfaces (shown in Fig. 4), and first and second longitudinal edges (shown in Figs. 1 and 4); and, means for connecting the rigid segments (18 of Fig. 3; col. 2 lines 9-13) such that the rigid segments define a sidewall (see Fig. 4) and such that the rigid segments are movable between an expanded position (Fig. 4) and a collapsed position (Fig. 1), in the expanded position the rigid segments cooperate with one another to form an object receiving space (see Fig. 3) and the outer surfaces of the rigid segments face radially outwardly (shown in Figs. 3 and 4), in the collapsed position (see Fig. 1) a first portion (defined as the "end" or "top edge" of each stave in Fig. 1) of the rigid segments is arranged so that the rigid segments of the first portion are in a coplanar relationship to one another (portions are defined as coplanar in Fig. 1 in that the "end" or "top edge" of the of any two or three portions are in the same plan. The container of Fig. 1 could be set on, say, a table top (a plane) where these particular segments would be in the same plane.) and a second portion (defined as that part of the segments from the "bottom" or "bottom edge" of any segments not chosen to have first portions in Fig. 1 of the rigid segments is arranged so that the outer surfaces of the rigid segments of the second portion are in a substantially parallel relationship (shown in Fig. 1) to the outer surfaces of the first portion of the rigid segments so that the sidewall is in a substantially flattened (defining Fig. 1 as flattened).

As to Claim 2, Wardwell further discloses the means for connecting comprising a flexible liner (18 of Fig. 3) attached to the rigid segments (col. 2 lines 9-11).

As to Claim 3, Wardwell further discloses an open upper end and closed lower end (see Fig.3).

As to Claim 4, Wardwell further discloses the liner a waterproof material (defining plastic as waterproof; col. 2 lines 9-11).

As to Claim 14, Wardwell further discloses the rigid segments with a substantially planar configuration (see Fig. 1).

As to Claim 16, Wardwell discloses a collapsible container (Figs. 1-5) comprising a flexible bottom panel (portion of 18 disclosed as bottom in Fig. 3); a plurality of rigid segments (14 of Fig. 4), each of the rigid segments having inner and outer surfaces (shown in Fig. 4), and a peripheral edge (shown in Figs. 1 and 4); and, means for connecting the rigid segments (18 of Fig. 3; col. 2 lines 9-13) such that the rigid segments define a sidewall (see Fig. 4) and such that the rigid segments are movable between an expanded position (Fig. 4) and a collapsed position, in the expanded position the rigid segments cooperate with one another to form an object receiving space (see Fig. 3) and the outer surfaces of the rigid segments face radically outwardly, in the collapsed position (see Fig. 1) a first portion (defined as that part of the segments from the "top" of the segments in Figs. 1 and 4 to the apertures with string (16) of Figs. 1 and 4) of the rigid segments is arranged so that the outer surfaces of the rigid segments of the first portion are in a coplanar relationship to one another (portions are defined as coplanar in Figs. 1 and 4 in that the "ends" of any two or three portions are in the same plan. The container of Figs. 1 and 4 could be set on, say, a table top (a plane) where these particular segments would be in the same plane. Additionally, the "ends" of these portions as shown in Figs. 1 and 4 are in the same plane.) and a second portion (defined as that part of the segments from the "bottom" of any segments not chosen to have first portions in Figs. 1 and 4 to the apertures with string (16) of Figs. 1 and 4) of the rigid segments is arranged so that the outer surfaces of the rigid segments of the second portion are in a substantially parallel relationship (the first and second portions are

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parallel since they are on different segments in Figs. 1 and 4 and the segments are shown as parallel to the first portion of the rigid segments so that the sidewall is in a substantially flattened (defining Fig. 1 as flattened).

As to Claim 17, Wardwell further discloses the means for connecting comprising a flexible liner (18 of Fig. 3) attached to the rigid segments (col. 2 lines 9-11).

As to Claim 18, Wardwell further discloses the flexible bottom panel as a portion of the flexible liner (see Fig. 3).

As to Claim 19, Wardwell further discloses an open upper end and closed lower end (see Fig.3) and the flexible bottom panel is the closed lower end of the flexible liner (see Fig. 3).

As to Claim 20, Wardwell further discloses the liner a waterproof material (defining plastic as waterproof; col. 2 lines 9-11).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wardwell (US 3,902,541) in view of Schorpp (US 1,426,916).

As to Claim 11, the limitations of Claim 1 are disclosed as described above. Not disclosed is the rigid segment made of metal. Schorpp, however, teaches the general concept of

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rigid segments made of metal (3 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the container of Wardwell by making the rigid segments of metal as disclosed by Schorpp depending upon availability of material.

As to Claim 23, the limitations of Claim 16 are disclosed as described above. Not disclosed is the rigid segment made of metal. Schorpp, however, teaches the general concept of rigid segments made of metal (3 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the container of Wardwell by making the rigid segments of metal as disclosed by Schorpp depending upon availability of material.

Claims 13, 25, 26, and 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wardwell (US 3,902,541) in view of Jannin (US 4,907,380).

As to Claim 13, the limitations of Claim 1 are disclosed as described above. Not disclosed are adjacent rigid segments having inner and outer lips which overlap when the segments are in the expanded position. Jannin, however, discloses a collapsible container that has inner and outer lips (see Fig. 5 for Examiner's inner and outer lips) which overlap (see Fig. 5) when the segments are in the expanded position (see Fig. 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the container of Wardwell by having the rigid members with overlapping lips as disclosed by Jannin so as to strengthen the container.

As to Claims 25 and 26, the limitations of Claim 16 are disclosed as described above. Not disclosed is a support means that is a flower pot being in the object receiving space. Examiner takes official notice that it is old and notorious well known to place flower pots in

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disposable bags when discarding. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collapsible container of Wardwell by using for discarding of flower pots (see Wardwell at col. 1 lines 1-4).

As to Claim 27, the limitations of Claim 25 are disclosed above. Not disclosed is the support means being an insert configured to conform to the contour of the inner side of the rigid segments. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the collapsible container of Wardwell as modified by filling completely with refuse (defined as the insert) which would conform to the inner contours of the rigid segments.

### ***Response to Arguments***

Applicant's arguments filed 8 December 2003 have been fully considered but they are not persuasive. The crux of Applicant's argument is that neither Wardwell, Schorpp, or Jannin teach a container with rigid segments that when in the collapsed condition the rigid segment are coplanar (Remarks page 8 1<sup>st</sup> para, page 9 1<sup>st</sup> para., page 9 last para. Examiner considers Wardwell to disclose a container with rigid segments that when in the collapsed condition the rigid segment are coplanar. The edges of the rigid segments of Fig. 1 of Wardwell are coplanar. Each edge is part of the outer surface of a rigid segment.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weder ('485 A1) discloses a similar invention by the instant applicant.



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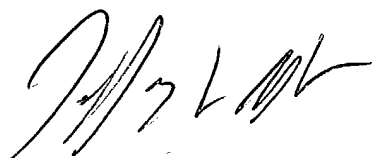
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

A handwritten signature in black ink, appearing to read 'J. L. Gellner', with a stylized flourish at the end.

Jeffrey L. Gellner